

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 11141 of 2014

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Smt Husna Bano, W/o Sri Junaid Ansari, Resident of village- Jalalpur, Ward No-01, P.O. & P.S.- Dhansoi, District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Welfare Department, Government of Bihar
2. The Deputy Director, Welfare, Patna Division, Patna
3. The District Programme Officer, Buxar
4. The Child Development Project Officer, Rajpur, P.O. & P.S. - Dhansoi, District- Buxar
5. Shakila Khatoon, W/o Md. Mustafa, Resident of village- Dhansoi, Ward no.- 07, P.O. & P.S.- Dhansoi, District- Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr N K Malhotra, Sr Advocate with
Mr Binod Kumar Sinha &
Ms Akanksha, Advocate

For the S t a t e : Mr Ravindra Kumar, AC to AAG

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 15-01-2018

Heard counsel for the petitioner and the State.

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The short issue which has been raised by the petitioner in the instant proceeding is that while deciding her Appeal No 105 of 2013-2014, she has not been afforded an opportunity of hearing. It is submitted that in the proceedings vide order dated 08.01.2014, the District Programme Officer was directed to produce the records of the case before 27.01.2014, that is the next date fixed for hearing the appeal. Having fixed the said date for hearing, the appellate authority has proceeded to hear the appeal on 22.01.2014 that is a date earlier to



the date which has been fixed. The petitioner has, thus, been denied the opportunity of appearing before the appellate authority.

3 Specific query was raised by this Court by order dated 01.12.2017 and the respondents were directed to file a counter affidavit dealing with this assertion of the petitioner. Since the matter has been pending since 2014, this Court has recorded in the said order that if no counter affidavit is filed, it would be presumed that the respondents have nothing to say with respect to the said claim of the petitioner. In spite of that, one other adjournment was granted to the State for placing on record the counter affidavit by way of last indulgence on 18.12.2017. Today again, no counter affidavit has been filed controverting or dealing with the said assertion of the petitioner.

4 Counsel for the State draws attention of the Court towards the earlier counter affidavit wherein, in paragraph 12, it has been stated that the appellate order was passed after hearing the petitioner's counsel. Prima facie, that appears to be an error of record inasmuch as nothing has been placed on record by the State to show that before preponing the date from 27.01.2014 to 22.01.2014, any notice was given to the petitioner or that any opportunity is given to the petitioner so that she may place her case and appear before the appellate authority on 22.01.2014.

5 Having noticed the aforesaid position, this Court



would quash the appellate order dated 22.01.2014 and direct that the matter may be heard on 19th of February, 2018 when the petitioner should appear before appellate authority. It is made clear that no unnecessary adjournment will be granted in the matter. It is also made clear that if the petitioner appears before the appellate authority on the date fixed, the authority would be obliged to expedite the disposal of the appeal without any further delay after issuing notice to, and hearing the parties concerned.

6 With the aforesaid observations, the writ petition stands disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.01.2018
Transmission Date	NA

